

***In conjunction with Powerchex, the premier pre-employment screening company for financial institutions in the UK, Beachcroft has developed the following document, to assist HR departments in complying with FSA best practice as it relates to Approved Persons***

## **1. Why are pre-employment checks important?**

### Case Study 1

One firm's failure to follow adequate pre-employment checks on a salesman led to significant fines when an FSA investigation exposed him to be a member of the IRA.

### Case Study 2

Following suspicions that one of their advisors was involved in fraudulent activity, a firm's investigation into the advisor revealed that only one reference from a previous employer had been obtained, where two had been requested. A reference request had been sent to another previous employer but no response had been received and no action had been taken to find out why not. On further investigation, the advisor's previous line manager stated that he had deliberately not sent the reference back in the expectation that the firm would contact him by telephone and he could explain the real reason why the advisor had left employment at that company...

### Case Study 3

Following a series of complaints relating to a particular mortgage advisor about the exaggeration of earnings on mortgage applications, the advisor's employment was terminated and the FSA decided to investigate the advisor's historical activities. With the FSA investigation ongoing the individual gained employment at another firm which was apparently unaware that the advisor's honesty and integrity were in question.

## **2. Offer of Employment**

We recommend that an offer of employment is made subject to receipt of:

- (1) satisfactory references;
- (2) passing of pre-employment checks on honesty, solvency and competence;
- (3) provision of national insurance number (and if relevant evidence of permission to work in the UK);
- (4) signature of employment contract and any relevant confidentiality or other undertakings concerning compliance with the firm's procedures relating to anti-money laundering, information security, compliance issues, FSA authorisation etc.

### 3. General requirements for all employees of FSA-regulated firms

FSA Handbook Rule	FSA Handbook Guidance	Attribute	Examples of assessment techniques
<p><b>SYSC 3.1.1 R</b></p> <p>A firm which is not a common platform firm must employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.</p> <p><b>SYSC 5.1.1 R</b></p> <p>A firm must employ personnel with the skills, knowledge and expertise necessary of the discharge of the responsibilities allocated to them (<i>the competent employee rule</i>)</p> <p><b>SYSC 3.1.7 R</b></p> <p>When complying with the competent employees rule, a firm must take into account the nature, scale and complexity of the business and the nature and range of financial services and activities undertaken in the course of the business</p>	<p><b>SYSC 3.2.13 G / SYSC 5.1.2 G</b></p> <p>A firm's systems and controls should enable it to satisfy itself of the suitability of anyone who acts for it.</p> <p><b>SYSC 3.1.14 G / SYSC 5.1.2 G / SYSC 5.1.3 G</b></p> <p>(1) This includes assessing an individual's honesty and competence. This assessment should normally be made at the point of recruitment. An individual's honesty need not normally be revisited unless something happens to make a fresh look appropriate.</p> <p>(2) Any assessment of an individual's suitability should take into account the level of responsibility that the individual will assume within the firm. The nature of this assessment will generally differ depending upon whether it takes place at the start of the individual's recruitment, at the end of the probationary period (if there is one) or subsequently.</p> <p><b>SYSC3.1.9 G / SYSC 5.1.5A G</b></p> <p>If a firm requires employees who are not subject to an examination requirement to pass a relevant examination from the list of recommended examinations maintained by the Financial Services Skills Council, the FSA will take that into account when assessing whether the firm has ensured that the employee satisfies the knowledge component of the competent employees rule.</p>	Skills	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Skills-based interview</li> <li>o Psychometric test</li> <li>o Group discussion / group task</li> <li>o References verification / verbal reference</li> <li>o Employment / professional history verification</li> </ul>
		Knowledge	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical interview</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification (esp. Financial Services Skills Council approved qualifications)</li> </ul>
		Expertise	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical interview</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> </ul>
		Honesty	<ul style="list-style-type: none"> <li>o Interview</li> <li>o Psychometric test</li> <li>o Debate task</li> <li>o Identity checks – passport validity, name, current &amp; previous address, date of birth</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Financial and credit checks</li> <li>o Verification of other business interests and involvements</li> <li>o CRB check</li> <li>o Terrorist / financial sanctions / money laundering checks</li> <li>o Overseas credit / criminal checks</li> <li>o Media exposure checks</li> <li>o Informal drink with members of workforce</li> <li>o Probationary period</li> </ul>
Competence	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical &amp; skills based interviews</li> <li>o Group discussion / task</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o Probationary period</li> </ul>		

#### 4. Requirements for employees involved in specified retail activities

##### **SYSC 3.1.8 G / SYSC 5.1.4 G**

The Training and Competence Sourcebook (TC) contains additional rules and guidance relating to specified retail activities undertaken by a firm

##### **TC 1.1.3 G**

The Training and Competence Sourcebook supplements the competent employees rule in the FSA Handbook for retail activities.

<b>FSA Handbook Rule</b>	<b>FSA Handbook Guidance</b>	<b>Attribute</b>	<b>Examples of assessment techniques</b>
<b>TC 2.1.1 R</b>  A firm must not assess an employee as competent to carry on an activity in TC Appendix 1 until the employee has demonstrated the necessary competence to do so and has (if required by TC Appendix 1) passed each module of an appropriate examination. This assessment need not take place before the employee starts to carry on the activity.	<b>TC 1.1.4 G</b>  Competence in the Training and Competence Sourcebook means having the skills, knowledge and expertise needed to discharge the responsibilities of an employee's role. This includes achieving a good standard of ethical behaviour.	Skills	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Skills-based interview</li> <li>o Psychometric test</li> <li>o Group discussion / group task</li> <li>o References verification / verbal reference</li> <li>o Employment / professional history verification</li> </ul>
		Knowledge	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical interview</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification (esp. Financial Services Skills Council approved qualifications)</li> <li>o FSA Register search</li> </ul>
		Expertise	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical interview</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o FSA Register search</li> </ul>
		Good standard of ethical behaviour	<ul style="list-style-type: none"> <li>o Interview</li> <li>o Psychometric test</li> <li>o Debate task</li> <li>o Identity checks – passport validity, name, current &amp; previous address, date of birth</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Financial and credit checks</li> <li>o Verification of other business interests and involvements</li> <li>o CRB check</li> <li>o Terrorist / financial sanctions / money laundering checks</li> <li>o Overseas credit / criminal checks</li> <li>o Media exposure checks</li> <li>o Informal drink with members of workforce</li> <li>o Probationary period</li> </ul>
		Fulfils examination requirement	<ul style="list-style-type: none"> <li>o Professional &amp; academic qualifications, memberships and licenses verification (esp. Financial Services Skills Council approved qualifications)</li> </ul>

## 5. Requirements for Approved Persons

### FIT 1.3.1 G

The FSA will have regard to a number of factors when assessing the fitness and propriety of a person to perform a particular controlled function. The most important considerations will be the person's:

- (1) honesty, integrity and reputation; (2) competence and capability; and (3) financial soundness.

### HONESTY INTEGRITY AND REPUTATION

Factors to consider	Examples of assessment techniques
<p><b>FSA Guidance: FIT 2.1.3 G</b></p> <p>(1) Whether the person has been convicted of any criminal offence; this must include, where provided for by the Exceptions Order to the Rehabilitation of Offenders Act 1974, any spent conviction; particular consideration will be given to offences of dishonesty, fraud, financial crime or an offence whether or not in the United Kingdom or other offences under legislation relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, banking and or other financial services, insolvency, consumer credit companies, insurance, and consumer protection, money laundering, market manipulation or insider dealing.</p> <p>(2) Whether the person has been the subject of any adverse finding or any settlement in civil proceedings, particularly in connection with investment or other financial business, misconduct, fraud or the formation or management of a body corporate;</p> <p>(3) Whether the person has been the subject of, or interviewed in the course of, any existing or previous investigation or disciplinary proceedings, by the FSA, by other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;</p> <p>(4) Whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings;</p> <p>(5) Whether the person has contravened any of the requirements and standards of the regulatory system or the equivalent standards or requirements of other regulatory authorities (including a previous regulator), clearing houses and exchanges, professional bodies, or government bodies or agencies;</p> <p>(6) Whether the person has been the subject of any justified complaint relating to regulated activities;</p> <p>(7) Whether the person has been involved with a company, partnership or other organisation that has been refused registration, authorisation, membership or a licence to carry out a trade, business or profession, or has had that registration, authorisation, membership or licence revoked, withdrawn or terminated, or has been expelled by a regulatory or government body;</p> <p>(8) Whether, as a result of the removal of the relevant licence, registration or other authority, the person has been refused the right to carry on a trade, business or profession requiring a licence, registration or other authority;</p> <p>(9) Whether the person has been a director, partner, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;</p> <p>(10) Whether the person, or any business with which the person has been involved, has been investigated, disciplined, censured or suspended or criticised by a regulatory or professional body, a court or Tribunal, whether publicly or privately;</p> <p>(11) Whether the person has been dismissed, or asked to resign and resigned, from</p>	<ul style="list-style-type: none"> <li>o Interview</li> <li>o Identity checks – passport validity, name, current &amp; previous address, date of birth</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Financial &amp; credit checks</li> <li>o Other business interests and involvements verification</li> <li>o Terrorist / financial sanctions / money laundering verification</li> <li>o Overseas credit / criminal verification</li> <li>o FSA register search</li> <li>o CRB check</li> </ul>

<p>employment or from a position of trust, fiduciary appointment or similar;</p> <p>(12) Whether the person has ever been disqualified from acting as a director or disqualified from acting in any managerial capacity;</p> <p>(13) Whether, in the past, the person has been candid and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the regulatory system and with other legal, regulatory and professional requirements and standards.</p>	
<p><b>APER 2.1 Principle 1</b></p> <p>An approved person must act with integrity in carrying out his controlled function.</p>	<ul style="list-style-type: none"> <li>o Interview</li> <li>o Psychometric test</li> <li>o Debate task</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Verification of other business interests and involvements</li> <li>o CRB check</li> <li>o Media exposure checks</li> <li>o FSA register search</li> <li>o Informal drink with members of workforce</li> <li>o Probationary period</li> </ul>
<p><b>APER 2.1 Principle 4</b></p> <p>An approved person must deal with the FSA and with other regulators in an open and cooperative way and must disclose appropriately any information of which the FSA would reasonably expect notice.</p>	<ul style="list-style-type: none"> <li>o Interview</li> <li>o Psychometric test</li> <li>o Debate task</li> <li>o Identity checks – passport validity, name, current &amp; previous address, date of birth</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Financial and credit checks</li> <li>o Verification of other business interests and involvements</li> <li>o CRB check</li> <li>o Terrorist / financial sanctions / money laundering checks</li> <li>o Overseas credit / criminal checks</li> <li>o FSA register search</li> </ul>

## COMPETENCE AND CAPABILITY

Factors to consider	Examples of assessment techniques
<p><b>FIT 2.2.1 G</b></p> <p>In determining a person's competence and capability, the FSA will have regard to all relevant matters including but not limited to:</p> <p>(1) Whether the person satisfies the relevant FSA training and competence requirements in relation to the controlled function the person performs or is intended to perform;</p> <p>(2) Whether the person has demonstrated by experience and training that the person is suitable, or will be suitable if approved, to perform the controlled function.</p>	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical &amp; skills based interviews</li> <li>o Group discussion / task</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification (esp. Financial Services Skills Council approved qualifications)</li> <li>o Employment / professional history verification</li> <li>o References verification / verbal reference</li> <li>o FSA Register search</li> <li>o Probationary period</li> </ul>
<p><b>FIT 2.2.2 G</b></p> <p>A person may have been convicted of, or dismissed or suspended from employment for, drug or alcohol abuses or other abusive acts. This will be considered only in relation to a person's continuing ability to perform the particular controlled function for which the person is or is to be employed.</p>	<ul style="list-style-type: none"> <li>o Medical / health check</li> <li>o Alcohol / drug tests</li> <li>o Interview</li> <li>o Informal drink with workforce</li> <li>o Probationary period</li> </ul>
<p><b>APER 2.1 Principle 2</b></p> <p>An approved person must act with due skill, care and diligence in carrying out his controlled function.</p>	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Skills-based interview</li> <li>o Group discussion / group task</li> <li>o Employment / professional history verification</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o References verification / verbal reference</li> <li>o FSA Register search</li> </ul>
<p><b>APER 2.1 Principle 3</b></p> <p>An approved person must observe proper standards of market conduct in carrying out his controlled function.</p>	<ul style="list-style-type: none"> <li>o Written / aptitude test</li> <li>o Technical interview</li> <li>o Employment / professional history verification</li> <li>o Professional &amp; academic qualifications, memberships and licenses verification</li> <li>o References verification / verbal reference / character reference</li> <li>o Other business interests and involvements verification</li> <li>o Terrorist / financial sanctions / money laundering verification</li> <li>o Overseas credit / criminal verification</li> <li>o FSA register search</li> <li>o CRB check</li> </ul>

## FINANCIAL SOUNDNESS

Factors to consider	Examples of assessment techniques
<p><b>FIT 2.3.1 G -</b>            In determining a person's financial soundness, the FSA will have regard to any factors including, but not limited to:</p> <p>(1) Whether the person has been the subject of any judgment debt or award, in the United Kingdom or elsewhere, that remains outstanding or was not satisfied within a reasonable period;</p> <p>(2) Whether, in the United Kingdom or elsewhere, the person has made any arrangements with his creditors, filed for bankruptcy, had a bankruptcy petition served on him, been adjudged bankrupt, been the subject of a bankruptcy restrictions order (including an interim bankruptcy restrictions order), offered a bankruptcy restrictions undertaking, had assets sequestrated, or been involved in proceedings relating to any of these.</p> <p><b>FIT 2.3.2 G -</b>            The FSA will not normally require the candidate to supply a statement of assets or liabilities. The fact that a person may be of limited financial means will not, in itself, affect his suitability to perform a controlled function.</p>	<ul style="list-style-type: none"> <li>o References verification / verbal reference / character reference</li> <li>o Other business interests and involvements verification</li> <li>o Financial &amp; credit checks</li> <li>o Terrorist / financial sanctions / money laundering verification</li> <li>o Overseas credit / criminal verification</li> <li>o FSA register search</li> <li>o CRB check</li> </ul>